

FILED IN THE
U.S. DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

Apr 15, 2024

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

SCOTT W. HUMPHREYS,

Plaintiff,

v.

SECURUS PHONE, MORE, A.
MORE, DUNCAN, UEKER,
MEDICAL, BAMA A. COLE, SAS
MED RESOLUTION, CHRISTSON,
MEDICAL PRINCIPLE DENTAL,
BARRAJUS, MORE, DAVAL
AMBROUSTER, ASSENT
DENECE, and PRESSEL,

Defendants.

No. 4:23-cv-05171-RMP

ORDER DENYING CONSTRUED
MOTION FOR RECONSIDERATION

BEFORE THE COURT is a construed Motion for Reconsideration filed by Plaintiff Scott W. Humphreys, a prisoner at the Coyote Ridge Corrections Center. ECF No. 27. On February 22, 2024, this Court denied Plaintiff's request to proceed *in forma pauperis*, dismissed this action, and entered judgment without prejudice. ECF Nos. 21 and 22. Plaintiff now appears to seek reconsideration of

ORDER DENYING CONSTRUED MOTION FOR RECONSIDERATION -- 1

1 the judgment of dismissal, asking the Court “for moot ruleing [sic], of
2 [indecipherable] in favor of the Plaintiff.” ECF No. 27 at 1.

3 A motion for reconsideration may be reviewed under either Federal Rule of
4 Civil Procedure Rule 59(e) (motion to alter or amend a judgment) or Rule 60(b)
5 (relief from judgment). *Sch. Dist. No. 1J, Multnomah Cnty., Or. v. ACandS, Inc.*, 5
6 F.3d 1255, 1262 (9th Cir. 1993). “A district court may properly reconsider its
7 decision if it ‘(1) is presented with newly discovered evidence, (2) committed clear
8 error or the initial decision was manifestly unjust, or (3) if there is an intervening
9 change in controlling law.’” *Smith v. Clark Cnty. Sch. Dist.*, 727 F.3d 950, 955
10 (9th Cir. 2013) (quoting *School Dist. No. 1J, Multnomah Cnty., Or.*, 5 F.3d at
11 1263). “There may also be other, highly unusual, circumstances warranting
12 reconsideration.” *School Dist. No. 1J Multnomah Cnty., Or.*, 5 F.3d at 1263.

13 In its Order to Show Cause, filed on January 16, 2024, this Court found that,
14 according to the records of the United States District Court, Western District of
15 Washington, Plaintiff is no longer eligible to proceed *in forma pauperis* under 28
16 U.S.C § 1915(g).¹ ECF No. 16 at 2; *see O’Neal v. Price*, 531 F.3d 1146, 1153 (9th
17 Cir. 2008); *see also Andrews v. King*, 398 F.3d 1113, 1116 n. 1 (9th Cir. 2005)

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19 ¹ *Headwaters Inc. v. U.S. Forest Serv.*, 399 F.3d 1047, 1051 n.3 (9th Cir. 2005)
20 (“Materials from a proceeding in another tribunal are appropriate for judicial
21 notice.”) (internal quotation marks and citation omitted).

1 (noting the “three strikes” terminology). Under this provision, *in forma pauperis*
2 status is unavailable to prisoners who have “on 3 or more prior occasions, while
3 incarcerated or detained in any facility, brought an action or appeal in a court of
4 the United States that was dismissed on the grounds that it is frivolous, malicious,
5 or fails to state a claim upon which relief may be granted.” 28 U.S.C. § 1915(g).

6 In its Order Denying Leave to Proceed *In Forma Pauperis* and Dismissing
7 Action, the Court found that Plaintiff failed to overcome the preclusive effects of
8 28 U.S.C. § 1915(g), and that because Plaintiff did not avail himself of the
9 opportunity to pay the \$405.00 filing fee, he was unable to proceed with this
10 action. ECF No. 21 at 2–3.

11 Plaintiff’s construed Motion for Reconsideration is difficult to decipher.²
12 However, he does not appear to present any newly discovered evidence,
13 demonstrate that the Court committed clear error, or show that the Order
14 dismissing this action was manifestly unjust. *See* ECF No. 27 at 1–2. There has
15 also been no intervening change in controlling law, and Plaintiff pleads no other
16 circumstances warranting reconsideration. *Id.* Accordingly, Plaintiff’s construed
17 Motion for Reconsideration, ECF No. 27, is denied.

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19 ² Since the entry of judgment of dismissal on February 22, 2024, ECF No. 22,
20 Plaintiff has filed four separate Supplements to his Complaint, as well as the
21 instant construed Motion for Reconsideration. ECF Nos. 23–27.

1 Accordingly, **IT IS HEREBY ORDERED:**

2 1. Plaintiff's construed Motion for Reconsideration, **ECF No. 27**, is
3 **DENIED.**

4 2. The file shall **REMAIN** closed. The Court shall entertain no further
5 documents in this case, other than a notice of appeal of the Court's
6 ruling regarding the construed Motion for Reconsideration, and the
7 District Court Clerk shall note no further motions or petitions for
8 hearing in this case.

9 3. The Court certifies that any appeal of this dismissal would not be
10 taken in good faith.

11 **IT IS SO ORDERED.** The District Court Clerk is directed to enter this
12 Order and provide a copy to Plaintiff.

13 **DATED** April 15, 2024.

14 *s/ Rosanna Malouf Peterson*
15 ROSANNA MALOUF PETERSON
16 Senior United States District Judge
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